

Amendment No. 1 to SB2574

Crowe
Signature of Sponsor

AMEND Senate Bill No. 2574

House Bill No. 2535*

by deleting all language after the caption and substituting:

WHEREAS, residents of nursing homes and assisted-care living facilities have certain resident rights that are incorporated into state and federal laws and regulations; and

WHEREAS, within those rights, a resident has a right to receive visitors of the resident's choosing at the time of the resident's choosing, subject to the resident's right to deny visitation when applicable, so long as the manner of those visits does not impose on the rights of another resident; and

WHEREAS, included within those rights is a right for each resident to refuse certain visitors, including all visitors if they so choose; and

WHEREAS, during normal conditions other than during a public health emergency, nursing homes must allow residents to receive visitors of their choice within the facility and within their room, without limits on the frequency or duration of visits for residents, the number of visitors, or requirements for advanced scheduling; and

WHEREAS, a resident's right to have visitors of their choosing is limited only to the extent that a facility may impose reasonable clinical and safety restrictions on such visits; and

WHEREAS, nursing homes and assisted-care living facilities should make available to residents and their representatives the facility's written policies and procedures regarding the visitation rights of residents, including those policies setting forth reasonable clinical and safety restrictions on such visits; and

WHEREAS, nursing homes certified by Medicare and Medicaid must comply with federal rules and regulations enacted by the Centers for Medicare and Medicaid Services (CMS) and

state laws and rules or be subject to significant monetary fines, and other sanctions including the loss of the ability to operate; and

WHEREAS, assisted-care living facilities must comply with state laws and rules or be subject to significant monetary fines and other sanctions, including the loss of the ability to operate; and

WHEREAS, many Tennesseans who are residents of nursing homes or assisted-care living facilities, or their representatives, have expressed confusion and frustration when individual resident rights to visitation have been abridged because the directives of federal and state authorities have determined that infection control considerations have required the balancing of those individual rights against the facility's requirement to protect all residents from harm; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

(a) As used in this section:

(1) "COVID-19" means the novel coronavirus, SARS-CoV-2, and coronavirus disease 2019, commonly referred to as COVID-19, including any variant of SARS-CoV-2 or COVID-19;

(2) "Family member" means a spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half-brother, half-sister, adopted child, or spouse's parent;

(3) "Long-term care facility" means a nursing home or assisted-care living facility, as defined in § 68-11-201; and

(4) "Resident representative" means:

(A) A family member or another individual, chosen by a resident of a long-term care facility to act on behalf of the resident in order to support the resident in decision-making; access medical, social, or other

personal information of the resident; manage financial matters; or receive notifications; or

(B) A court-appointed guardian or conservator of a resident.

(b) Notwithstanding another law to the contrary, during a period in which a disaster, emergency, or public health emergency for COVID-19 has been declared, a long-term care facility must allow a resident to have visitors during end-of-life situations and shall not restrict a patient from having at least one (1) resident representative present in the facility so long as the resident representative:

(1) Is not exhibiting symptoms of COVID-19 or another communicable disease;

(2) Agrees to follow all safety protocols established by the long-term care facility, which must be clearly specified in writing and be no more restrictive than protocols applicable to staff of the facility; and

(3) Would not by the representative's presence in the long-term care facility cause the facility to violate a federal or state law, rule, or guidance regulating that facility.

SECTION 2. This act takes effect July 1, 2022, the public welfare requiring it.